

YEAR

**1998****Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts and MSAs****3805P**

For calendar year 1998 or fiscal year beginning month _____ day _____ year 1998, and ending month _____ day _____ year _____	
First name _____	Initial _____ Last name _____
Your social security number _____	
Present home address (number and street or rural route) _____	
City, town or post office _____ State _____ ZIP Code _____	
Check this box if this is an amended return <input type="checkbox"/>	

**Part I Tax on Early Distributions**

Complete this part if a taxable distribution was made from your qualified retirement plan (including an IRA other than an education (Ed) IRA), annuity contract or modified endowment contract before you reached age 59½ (or was incorrectly indicated as such on your Form 1099-R – see instructions).

- |   |         |
|---|---------|
| 1 Early distributions included in gross income. See instructions . . . . .  | 1 _____ |
| 2 Distributions excepted from additional tax. See instructions. Enter exception number from instructions <input type="checkbox"/> <input type="checkbox"/> . . . . .  | 2 _____ |
| 3 Amount subject to additional tax. Subtract line 2 from line 1. . . . .  | 3 _____ |
| 4 Tax due. Multiply line 3 by 2½% (.025). Enter here and on Form 540, line 36 or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions. . . . . | 4 _____ |

**Caution:** If any amount on line 3 was a distribution from a SIMPLE retirement plan, you must multiply that distribution by 6% (.06) instead of 2½%. See instructions for more information.

**Part II Tax on Distributions from Ed IRAs Not Used for Educational Expenses**

Complete this part if a distribution was made from your Ed IRA and was not used for educational expenses.

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|---|---------|
| 5 Taxable amount from federal Form 8606, line 29. See instructions . . . . .  | 5 _____ |
| 6 Distributions excepted from additional tax. See instructions . . . . .  | 6 _____ |
| 7 Amount subject to additional tax. Subtract line 6 from line 5. . . . .  | 7 _____ |
| 8 Tax due. Multiply line 7 by 2½% (.025). Enter here and on Form 540, line 36 or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions. . . . . | 8 _____ |

**Part III Tax on Distributions from Medical Savings Accounts (MSAs)**

Complete this part if you reported a taxable distribution from an MSA on federal Form 8853.

- |   |                              |
|---|------------------------------|
| 9 Taxable MSA distribution from federal Form 8853, line 10 . . . . .  | 9 _____                      |
| 10 a If you meet any of the exceptions to the 10% tax (see instructions), check here . . . . .  | 10a <input type="checkbox"/> |
| b Otherwise, multiply line 9 by 10% (.10). Enter the result here and include it in the total on Form 540, line 36, or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions . . . . . | 10b _____                    |

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. It is unlawful to forge a spouse's signature.

Your signature _____	Date _____
X Signature of paid preparer (declaration of preparer is based on all information of which preparer has any knowledge.)	Paid preparer's SSN/FEIN _____

Firm's name (or yours if self-employed) and address _____	Date _____
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**General Information**

In general, California tax law conforms to the Internal Revenue Code (IRC) as of January 1, 1998. However, there are continuing differences between California and federal tax law. California has not conformed to the changes made to the IRC by the federal Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (Public Law 105-206) and the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277).

**Changes to Note**

- Part I now includes the new tax on early distributions from Roth IRAs.

- Part II was added to reflect the new tax on distributions from education (Ed) IRAs not used for educational expenses.
- Part III was added to reflect taxable distributions from Medical Savings Accounts (MSAs).
- The following changes were made to the exceptions listed in the instructions for Part I, line 2:
  - New exception 08 was added for distributions for higher education expenses.
  - New exception 09 was added for distributions for first home purchases.

**A Purpose**

Use this form to report any additional tax you may owe on the early distribution from an IRA, other qualified retirement plan, annuity, a modified endowment contract or a medical savings account (MSA).

**B Who Must File**

You **must** file form FTB 3805P if you:

- Have distribution code 1 shown in box 7 of Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.;
- Owe the tax on early distributions from your IRA, other qualified retirement plan,

annuity or modified endowment contract and you incorrectly have an exception code in box 7 of Form 1099-R;

- Owe a tax because you received distributions from an Ed IRA in excess of amounts you spent for educational expenses (complete Part II);
- Received taxable distributions from an MSA; or
- Meet an exception to the tax on early distributions and distribution code 2, 3 or 4 is **NOT** shown or is incorrect on Form 1099-R. (You must file even if you do not owe any tax.)

You **do not** have to file form FTB 3805P if you:

- Rolled over the taxable part of all distributions you received during the year into another qualified plan within 60 days of receipt; or
- Received an early distribution from your plan but meet an exception to the tax (distribution code 2, 3 or 4 must be correctly shown on federal Form 1099-R).

California and federal laws are the same for tax on early distributions except for the rate of tax assessed. However, the amount of an IRA or Keogh distribution included in income may differ for state and federal tax purposes. Also, California does not have taxes similar to the excess contributions tax on traditional IRAs, tax on excess contributions to Roth IRAs, tax on excess contributions to Ed IRAs, tax on excess contributions to MSAs or tax on excess accumulation in qualified retirement plans.

Such federal taxes are figured on federal Form 5329, Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts and MSAs, Part III through Part VII.

**Joint Returns.** Each spouse must complete a separate form FTB 3805P for taxes attributable to his or her distribution from a qualified retirement plan as described above. If both spouses owe a tax on early distributions, enter the combined tax from both forms on Form 540, line 36 or Form 540NR, line 45.

**IRA Contributions.** Do not file form FTB 3805P to report a deduction for contributions to your IRA or Keogh plan. See the instructions for Schedule CA (540), California Adjustments — Residents, or Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents.

If you made a nondeductible IRA or Keogh contribution in prior years, refer to FTB Pub. 1005, Pension and Annuity Guidelines, for information on how to compute the taxable portion of your IRA distribution subject to the additional tax.

## C When and Where to File

If you are required to file a 1998 Form 540, California Resident Income Tax Return, or Form 540NR, California Nonresident or Part-

Year Resident Income Tax Return, you must attach your 1998 form FTB 3805P to your return.

If you do not have to file Form 540 or Form 540NR but owe a tax on form FTB 3805P or otherwise have to file form FTB 3805P as described in General Information B, you must still complete and file this form with the Franchise Tax Board (FTB) by the due date for filing Form 540 or Form 540NR. Send your completed form FTB 3805P and your check or money order payable to the "Franchise Tax Board" for the total of any taxes due. Write your social security number and "1998 FTB 3805P" on your check or money order.

Mail to: FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0001

If you are paying tax for a previous year, you must complete that tax year's version of form FTB 3805P. If you have filed your Form 540 or Form 540NR for the prior year and you have no adjustments to income that require you to file Form 540X, Amended Individual Income Tax Return, file only form FTB 3805P.

If you are filing form FTB 3805P separately from Form 540, Form 540NR or Form 540X, you must sign form FTB 3805P. Include a check or money order payable to the "Franchise Tax Board" for the total amount of any tax due. Write your social security number and "FTB 3805P" on your check or money order.

## D Definitions

**Qualified Retirement Plan** — A qualified retirement plan includes:

- A qualified pension, profit-sharing and stock bonus plan (including a Keogh plan and a qualified cash or deferred arrangement (CODA) described in IRC Section 401(k));
- A qualified annuity plan;
- A tax-sheltered annuity contract; or
- An individual retirement account or an individual retirement annuity.

**Traditional IRA** — An individual retirement account or an individual retirement annuity described in IRC Sections 408(a) and (b), including a simplified employee pension (SEP) IRA, but not including a SIMPLE IRA or a Roth IRA.

**SEP IRA** — An employer-sponsored plan under which an employer can make contributions to IRAs established for its employees. The term SEP IRA means an IRA that receives contributions made under a SEP. The term SEP includes a salary reduction SEP described in IRC Section 408(k)(6).

**SIMPLE Retirement Plan** — A written arrangement established under IRC Section 408(p) that provides a simplified tax-favored retirement plan for small employers. A SIMPLE retirement plan can be an individual

retirement account or an individual retirement annuity.

**Roth IRA** — An IRA that meets the requirements of IRC Section 408A. Generally, for the purposes of this form, the same rules that apply to traditional IRAs apply to Roth IRAs. For additional information about Roth IRAs, see federal Pub. 590, Individual Retirement Arrangements (IRAs), federal Form 8606, Nondeductible IRAs, and FTB Pub. 1005A, California Tax Treatment of Roth IRA.

**Early Distributions** — Generally, any distribution from your qualified retirement plan, annuity or modified endowment contract that you receive before you reach age 59½ is an early distribution. The portion of the early distribution that is included in income is subject to an additional 2½% tax. (If the early distribution is from a SIMPLE retirement plan, the portion included in income is subject to an additional 6% tax.)

**Rollover** — A tax-free distribution (withdrawal) of assets from one qualified retirement plan that is contributed to another plan. Generally, you must complete the rollover within 60 days following the distribution for it to qualify for tax-free treatment. Refer to IRS Publication 590 for details.

**Tax on Early Distributions.** The tax on early distributions from qualified retirement plans does not apply to:

- 1998 IRA contributions withdrawn during the year or 1997 excess contributions withdrawn in 1998 before the filing date (including extensions) of your 1997 income tax return;
- Excess IRA contributions for years before 1997 that were withdrawn in 1998, and 1997 excess contributions withdrawn after the due date (including extensions) of your 1997 income tax return, if no deduction was allowed for the excess contributions, and the total IRA contributions for the tax year for which the excess contributions were made were not more than \$2,000 (or if the total contributions for the year included employer contributions to a SEP, \$2,000 increased by the smaller amount of the employer contributions to the SEP or \$30,000);
- The part of your IRA distributions that represents a return of nondeductible IRA contributions figured on federal Form 8606;
- The part of your IRA distribution that represents a return of nondeductible contributions made before 1987 or annual contributions (not rollover contributions from employer-sponsored plans) plus earnings made as a nonresident;
- Distributions rolled over to another retirement arrangement or plan;
- Distributions of excess contributions from a qualified cash or deferred arrangement;
- Distributions of excess aggregate contributions to meet nondiscrimination requirements for employer matching and employee contributions;

- Distributions of excess deferrals; and
- Amounts distributed from unfunded deferred compensation plans of tax-exempt or state and local government employers.

See the instructions for line 2 for other distributions that are excepted from the tax.

**Education (Ed) IRA** – A trust or custodial account described in IRC Section 530 that is created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the account.

Taxpayers may deposit up to \$500 per year into an Ed IRA for a child under age 18. The total contributions (by all taxpayers) for the child during the tax year may not exceed \$500 and each contributor is subject to the contributions limit of IRC Section 530(c) based on adjusted gross income.

Distributions from an Ed IRA that exceed the child's qualified higher education expenses in a tax year are generally subject to income tax and to an additional tax of 10% (figured in Part II of form FTB 3805P).

For additional information, see federal Form 8606.

**A Medical Savings Account (MSA)** – A tax-exempt trust or custodial account set up in the United States exclusively for paying the qualified medical expenses of the account holder or the account holder's spouse or dependent(s) in conjunction with a high deductible health plan (HDHP).

Federal Form 8853 is used to report general information about new MSAs, to figure your MSA deduction, and to figure your taxable distribution for MSAs. California law is the same as federal law regarding MSA contributions and deductions but is different regarding the amount of additional tax on MSA distributions not used for qualified medical expenses. The additional tax is 10% for California.

Therefore, for California purposes, there is no separate form to file to report general information about new MSAs or to figure your MSA deduction. However, if you have a taxable MSA distribution, you must file form FTB 3805P to figure the additional tax.

## Specific Line Instructions

### Part I – Tax on Early Distributions

#### Line 1 – Early Distributions Included in Gross Income

**Qualified Retirement Plans (including IRAs).** Enter the amount of distributions included in gross income you received from a qualified retirement plan, including traditional IRAs and Roth IRAs (and income earned on excess contributions to your IRAs), before you reached age 59½. The amount of the early distributions you must include in gross income for California purposes may differ from the amount reported on your federal return if the

amount of contributions you deducted for California was different than the federal amount or if you were a nonresident when you made IRA contributions. You must report the difference on Schedule CA (540) or Schedule CA (540NR).

For Form 540NR filers, the amount entered on line 1 is the taxable amount of early distributions reported on Schedule CA (540NR), line 15, column E, or Schedule CA (540NR), line 16, column E.

**Annuity contracts.** If you receive any amounts under an annuity contract from distributions made before reaching age 59½, such amounts may also be subject to an additional 2½% tax on the portion which is includible in gross income. Refer to IRC Section 72(q) and IRS Publication 575, Pension and Annuity Income, for details. Enter on line 1 the distribution included in gross income.

**Modified endowment contracts.** In general, if you received any amounts under a modified endowment contract (as defined in IRC Section 7702A), entered into after June 20, 1988, from distributions before reaching age 59½, such amounts are also subject to an additional 2½% tax on the part of the distribution that is includible in gross income. Enter on line 1 the distribution included in gross income.

**Prohibited Transactions.** If you engaged in a prohibited transaction, such as **borrowing** from your individual retirement **account** or **annuity**, or pledging your individual retirement **annuity** as security for a loan, your account or annuity no longer qualified as an IRA on the first day of the tax year in which you did the borrowing or pledging. You are considered to have received a distribution of the entire value of your account or annuity at that time. Using your IRA as a basis for obtaining a benefit is also a prohibited transaction. If you were under age 59½ on the first day of the taxable year, enter on line 1 the entire value of the account that represents taxable income.

**Pledging of Account.** If, during your taxable year, you use any part of your individual retirement account as security for a loan, that part is considered distributed to you at the time pledged. If you were under age 59½ at the time of the pledge, enter the amount pledged on line 1.

**Collectibles.** If your IRA trustee invested your funds in collectibles, you are considered to have received a distribution equal to the cost of any "collectible." Collectibles include works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages and certain other tangible personal property. The cost of any collectible in which you invested funds of your IRA in 1998 is deemed to be a distribution to you in 1998. If you were under age 59½ when the funds were invested, enter on line 1 the cost of the collectible included in gross income.

**Exception.** Your IRA may invest in U.S. one, one-half, one-quarter and one-tenth ounce

gold coins and one ounce silver coins minted by the U.S. Treasury Department. Beginning in 1998, your IRA can invest in certain platinum coins and certain gold, silver, palladium and platinum bullion.

#### Line 2 – Distributions Excepted From Additional Tax

The additional tax does not apply to certain distributions specifically excepted by the IRC. Enter on line 2 the excepted amount. In the boxes on line 2, enter the applicable exception number (01 – 10) from the list below.

**Form 540NR Filers:** Enter the portion of the taxable distribution (Schedule CA (540NR), line 15 or line 16) that qualifies for an exception.

#### No. Exception

- 01** Distribution due to separation from service in or after the year of reaching 55.
- 02** Distribution made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified employee plan, payments must begin after separation from service).
- 03** Distribution due to total and permanent disability. To meet this exception, you must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration.  
See IRS Publication 590. If you do not owe tax on your early distribution because of this exception, and the Form 1099-R that you received shows distribution code 3, you do not have to file form FTB 3805P unless otherwise required.
- 04** Distributions due to death (does not apply to modified endowment contracts).  
If you do not owe tax on your early distribution because of this exception, and the Form 1099-R that you received shows distribution code 4, you do not have to file form FTB 3805P unless otherwise required.
- 05** Distribution to the extent you have medical expenses deductible under IRC Section 213.
- 06** Distributions made to an alternate payee under a qualified domestic relations order.
- 07** Distributions made to unemployed individuals for health insurance premiums.
- 08** Distributions made for higher education expenses.
- 09** Distributions made for first home purchases.
- 10** Other (see instructions below).

**Note:** The following limitations apply to the exceptions:

- Exceptions 01 and 06 above do not apply to distributions from IRAs or annuity or modified endowment contracts. They apply only to distributions from qualified employee plans.
- Exceptions 05, 07, 08 and 09 do not apply to annuities or modified endowment contracts.

**Other exceptions.** In addition to the exceptions listed, the tax does not apply to any distributions from a plan maintained by an employer if:

- You separated from service by March 1, 1986;
- As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule for distribution of the entire interest; and
- The distribution is actually being made under the written election.

Also, distributions from annuity contracts are not subject to the additional tax on early distributions to the extent that the distributions are allocable to an investment in the contract before August 14, 1982.

Distributions that are dividends paid with respect to stock described in IRC Section 404(k) are not subject to the additional tax.

If any of these exceptions apply, enter the distribution amount on line 2 and exception number 10 in the boxes provided. For additional exceptions applicable to annuity contracts, see IRC Section 72(q)(2) and IRS Publication 575.

Also enter on line 2 the amount of a distribution you received when you were age 59½ or older, if you received federal Form 1099-R for a distribution that incorrectly indicated an early distribution (code 1).

**Line 3** – Subtract the amount of distributions excepted from tax on line 2 from the amount of early distributions included on line 1. Enter the result on line 3. This is the amount of your distribution subject to tax.

**Line 4** – Multiply line 3 by 2½% (.025). However, if any amount on line 3 was a distribution from a SIMPLE retirement plan, you must multiply that amount by 6% (.06) instead of 2½% (.025). SIMPLE distributions are included in box 1 and box 2a of federal Form 1099-R and are designated with a code “S” in box 7.

Enter the total on line 4 and on Form 540, line 36, or Form 540NR, line 45. If you are not required to file Form 540 or Form 540NR, see “When and Where to File” on Side 2 of form FTB 3805P.

## Part II — Tax on Distributions from Ed IRAs Not Used for Educational Expenses

**Line 5** – Enter the amount from federal Form 8606, line 29.

**Form 540NR Filers:** Enter the taxable amount of Ed IRA distributions included on Schedule CA (540NR), line 15, column E.

**Line 6** – Enter on line 6 the total amount that can be excepted.

The 2½ (.025) additional tax does not apply to distributions that are:

- Due to the death or disability of the beneficiary;
- Made on account of a scholarship, allowance, or payment described in IRC Section 25A(g)(2); and,
- Taxable solely because you chose to waive any exclusion you may be entitled to for your 1998 qualified higher education expenses. (This election was made by checking the box on federal Form 8606, line 28.)

If you are not required to file Form 540 or Form 540NR, see General Information C.

**Form 540NR Filers:** Enter the portion of the taxable Ed IRA (Schedule CA (540NR), line 15, column E) that qualifies for the exception.

**Line 8** – If you are not required to file Form 540 or Form 540NR, see General Information C.

## Part III — Taxable Medical Savings Account (MSA) Distributions

California law is the same as federal law regarding taxable distributions from MSAs, except the additional tax on distributions not used for qualified medical expenses is 10% for California. Complete federal Form 8853 before completing this part. You need to complete line 9 and line 10 only if you have an amount on federal Form 8853, line 10.

**Line 9** – Enter the amount from federal Form 8853, line 10.

**Form 540NR Filers:** Enter the taxable amount of MSA distributions that was included on Schedule CA, line 21, column E.

**Line 10a** – Check this box if you checked the box on federal Form 8853, line 11a.

Any distribution amount that is excepted from the additional tax for federal purposes is also excepted from the additional tax for California. Refer to the instructions for federal Form 8853, line 11a.

**Form 540NR Filers:** Enter the portion of the taxable MSA (Schedule CA, line 21, column E) that qualifies for an exception.

**Line 10b** – If you are not required to file Form 540 or Form 540NR, see General Information C.